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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,360	07/27/2001	David A. Kraft	A148 1603	9869

7590

08/25/2003

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037

EXAMINER

RHEE, JANE J

ART UNIT

PAPER NUMBER

1772

DATE MAILED: 08/25/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/917,360

Applicant(s)

KRAFT ET AL.

Examiner

Jane J Rhee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-28 and 30-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-28 and 30-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 21,28,39 are rejected under 35 U.S.C. 102(e) as being anticipated by Shih (6124010).

Shih discloses a surface covering component comprising two resilient sheet elements having substantially the same structure (figure 3 number 21 and 22 col. 2 lines 6-7) each element comprising a first major surface and a second major surface (figure 3 number 21 and 22) and a gluing surface e interposed between the first major surface and the second major surface, the gluing surfaces of the two elements being adjacent, and an adhesive interposed between the gluing surfaces (col. 4 lines 17-20), wherein the gluing surfaces are not perpendicular to the first major surface (figure 3 numbers 311 and 321). Shish discloses that the surface covering has a seam that is a scarf joint (figure 3 number 30).

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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2. Claim 34 rejected under 35 U.S.C. 102(b) as being anticipated by MacLaine et al. (3615994).

MacLaine et al. discloses two resilient sheet elements having substantially the same structure (figure 1 number 1 and 2 col. 2 line 1), each element comprising a first major surface and a second major surface (figure 1 number 1 and 2), and a gluing surface interposed between the first major surface and the second major surface (col. 2 line 11-12), the gluing surfaces of the two elements being adjacent (figure 1 number 8), and an adhesive interposed between the gluing surfaces (figure 1 number 8), wherein the surface covering is in the form of a roll (figure 2 number 12), with the gluing surfaces being in a plane generally perpendicular to the axis of the roll (figure 1 number 8), the gluing surfaces and adhesive forming a seam (figure 1 number 8), and the thickness of the seam being substantially no greater than the thickness of the elements (figure 1 number 8 and 1,2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 21,25-26,28,30,35,37,39,41-42,44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. in view of Winter (4907383).

MacLaine et al. discloses a floor covering (col. 1 line 21) comprising two resilient sheet elements having substantially the same structure (figure 1 number 1 and 2 col. 2 line 1), each element comprising a first major surface and a second major surface (figure 1 number 1 and 2), and a gluing surface interposed between the first major surface and the second major surface (col. 2 line 11-12), the gluing surfaces of the two elements being adjacent (figure 1 number 8), and an adhesive interposed between the gluing surfaces (figure 1 number 8), wherein the surface covering is in the form of a roll (figure 2 number 12), with the gluing surfaces being in a plane generally perpendicular to the axis of the roll (figure 1 number 8), the gluing surfaces and adhesive forming a seam (figure 1 number 8), and the thickness of the seam being substantially no greater than the thickness of the elements (figure 1 number 8 and 1,2). MacLaine et al. discloses that the flooring sheet comprises a substrate (col. 2 line 8), foam layer (col. 2 line 7) and a design layer (col.2 line 4).

MacLaine et al. fail to disclose that the gluing surfaces are not perpendicular to the first major surface. MacLaine et al. fail to disclose that the gluing surfaces and adhesive created a seam in the form of a scarf joint. MacLaine et al. fail to disclose that the gluing surfaces are in a plane generally parallel to the axis of the roll.

Winter teaches floor panels with gluing surfaces that are not perpendicular to the first major surface, more specifically scarf joints for the purpose of providing larger bonding area to easily align and secure the panel joints together (col. 7 lines 35-39).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine et al. with gluing surfaces

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that are not perpendicular to the first major surface, more specifically scarf joints in order to provide larger bonding area to easily align and secure the panel joints together (col. 7 lines 35-39) as taught by Winter.

Also, when the gluing surfaces create a seam in the form a scarf joint, the gluing surface is inherently in a plane generally parallel to the axis of the roll, therefore, since it is obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine with a scarf joint in order to provide larger bonding area to easily align and secure the panel joints together (col. 7 lines 35-39) as taught by Winter, the gluing surface will inherently be parallel to the axis of the roll.

4. Claims 22-24,31-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. and Winter in view of Ehrhart et al. (5140088).

MacLaine et al. and Winter discloses the surface covering described above. MacLaine et al. and Winter fail to disclose a radiation curable and UV curable adhesive, wherein the adhesive is cyanoacrylate. Ehrhart et al. teaches resilient vinyl floor coverings (col. 1 lines 15-23) with the adhesive cyanoacrylate for the purpose of preventing the buildup of dirt and penetrations of moisture between the seams of the surface coverings (col. 1 lines 62).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine and Winter with the adhesive cyanoacrylate in order to prevent the buildup of dirt and penetrations of moisture between the seams of the surface coverings (col. 1 lines 56-62) as taught by Ehrhart et al.

5. Claims 27,36,38,40,43,46 rejected under 35 U.S.C. 103(a) as being unpatentable over MacLaine et al. and Winter in view of Pacione (6298624).

MacLaine et al. and Winter discloses the surface covering described above. MacLaine et al. and Winter fail to disclose a seamless top coat layer that covers substantially the entire surface covering component, including the two elements and the seam formed by the adjacent gluing surfaces and the adhesive. Pacione teaches a covering layer that covers the entire surface covering component, including the two elements and the seam formed by adjacent gluing surfaces and adhesive (figure 4 numbers 9,13,15) for the purpose of installing a decorative cover (col. 1 lines 13-17).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide MacLaine et al. and Winter with a covering layer that covers the entire surface covering component, including the two elements and the seam formed by adjacent gluing surfaces and adhesive in order to install a decorative cover (col. 1 lines 13-17) as taught by Pacione.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane J Rhee whose telephone number is 703-605-4959. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Jane Rhee
August 1, 2003



HAROLD PYON
SUPERVISORY PATENT EXAMINER
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8/7/03